

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated November 7, 2008, which has been reviewed and carefully considered. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1, 2, 4-6 and 8-19 are pending in the Application. Claims 18 and 19 are added by this amendment.

Applicants gratefully acknowledge the Examiner's approval of the proposed drawing changes filed on August 5, 2008 and withdrawal of the objection to the drawings.

The Office Action once again suggests adding headings to the specification, but acknowledges that such headings are not required. Applicants respectfully decline to add the headings for previously stated reasons.

In the Office Action, claims 9 and 16 are objected to for certain informalities. In response, claims 9 and 16 are amended in accordance with the suggestions provided in the Office Action. Accordingly, withdrawal of the objection to claims 9 and 16 is respectfully requested.

In the Office Action, claims 11 and 17 are rejected under 35

U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement. Applicants respectfully traverse the rejection.

Claim 11 recites, in relevant part, "wherein a rotational speed of the actively driven roller is higher than the rotational speed that would result from the movement of the shaving head by a user during the shaving operation." Clear and unequivocal support for this claimed subject matter is found, for example, on page 5 lines 4-6, of the current specification, which states that:

"roller 32 is driven by the electromotor 36 to rotate with the sense of rotation 34 and with a rotational speed that is higher than the rotational speed that would result from the movement of the shaving head 8 over the skin 40."

Thus, it categorically clear that the subject matter of claim 11 is described in the specification in such a way as to reasonably convey to one of ordinary skill in the art that the inventors had possession of the claimed invention as of the time of filing of the application. The fact the claimed subject matter is not understood by the Examiner is not a basis for asserting a "written description" rejection. Notwithstanding the above, in the interest of cooperation and advancing prosecution, claim 11 has been amended by deleting the limitations regarding "wherein a

rotational speed of the actively driven roller is higher than the rotational speed that would result from the movement of the shaving head by a user during the shaving operation."

Furthermore, it is respectfully asserted that the "written description" rejection of claim 17 is not well founded. Claim 17 recites that "wherein said pivot axis is arranged at a position selected to distribute the perpendicular force component at least essentially in equal parts to said actively driveable skin stretching device and said guard in view of friction between the guard means and a user's skin and in view of friction between the actively driveable skin stretching device and a user's skin." Clear and unequivocal support for this subject matter is found, for example, on page 5 lines 12-19 of the current specification, which states:

In accordance with the present invention it is preferred that the force component 42 having the magnitude $2F$ is distributed equally to the skin stretching means 14 and the guard means 28. . . . in general the optimal position of the pivot axis depends on the friction between the skin 40 and guard means 28, the friction between the skin 40 and the roller 32 as well as the traction of the actively driveable skin stretching means 14.

Thus, it categorically clear that the subject matter of claim 17 is described in the specification in such a way as to

reasonably convey to one of ordinary skill in the art that the inventors had possession of the claimed invention as of the time of filing of the application. The fact the Examiner disagrees with the claimed subject matter contending that the claimed "optimal position . . . is not always correct" is not a basis for asserting a "written description" rejection. Notwithstanding the above, in the interest of cooperation and advancing prosecution, claim 17 has been amended to recite that the "pivot axis is arranged at a middle position between said actively driveable skin stretching device and said guard." Accordingly, withdrawal of the rejection of claims 11 and 17 under 35 U.S.C. §112, first paragraph, is respectfully requested.

In the Office Action, claims 1, 2, 4-6, 8-10 and 12-17 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,933,960 to Avidor ("Avidor"). It is respectfully submitted that claims 1, 2, 4-6 and 8-17, as well as new claims 18-19, are allowable over Avidor for at least the following reasons.

In formulating the rejection of claim 1, the Examiner relies on the teachings of Avidor in FIGS. 16 and 17 as disclosing the subject matter of claim 1. However, reliance on Avidor in this regard is respectfully misplaced.

For instance, the Office Action improperly characterizes the rear roller element (122) in FIG. 16 of Avidor as being a "skin stretching device arranged behind said cutting blade" as recited in claim 1. In contrast, Avidor specifically discloses that the "rear roller" (122) is used to deliver a chemical preparation onto the skin, and that such rear roller is utilized to enhance delivery of such chemical preparation (See Col. 10, lines 22-25). In this regard, there is no reasonable basis to construe that the "rear roller" operates as a "skin stretching device" as recited in the claims.

In fact, Avidor actually teaches away from the use of skin stretching mechanisms for shavers. Indeed, Avidor teaches various embodiments in which a hair erecting device disposed forward to the cutting blades includes a rotary assembly with projections that operate to engage and move hairs to an erect position for cutting, and Avidor specifically teaches that such rotary hair erecting device is more effective than mechanisms that merely stretch the skin to cause the hairs to spring upwardly (see, e.g., Col. 1, lines 32-55). Moreover, Avidor discloses that some "skin stretching" functionality is provided by a leading razor blade

(see, e.g., Col. 7, lines 11-24) but neither discloses nor suggests that a skin stretching device follows the cutting blade.

Furthermore, while Avidor arguably discloses in FIG. 17 a pivotable connection (132) between the handle (124) and support plate (110), Avidor merely discloses that the pivotable connection is used to permit tilting of the cutting device relative to the handle (see, Col. 10, lines 29-38, Col. 11, lines 45-47).

It is undisputable, however, that Avidor does not specifically disclose or fairly suggest "said pivot axis is arranged such that a force component applied perpendicularly to said cutting direction during a shaving operation is distributed at least essentially in equal parts to said actively driveable skin stretching device and said guard" as recited in claim 1.

The Final Office Action seemingly relies on the theory of "inherency" to support the anticipation rejection in this regard.

For example, in the Response to Arguments section (page 6) of the Final Office Action, I is stated that in Avidor, items (122) and (104) would have a perpendicular force applied to them during shaving and that such forces may not be equal but definitely could be considered "essentially equal" as claimed. The Examiner further states that in FIG. 17, "clearly the pivot (132) is essentially in

the middle and would therefore distribute forces essentially equal to both (122) and (104)." It is respectfully submitted that these assertions, even if accepted in arguendo, do not support a finding of inherency.

In order to rely on the theory of inherency, it must be shown that some basis-in-fact or technical reasoning which reasonably supports the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. It must be shown via extrinsic evidence that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, may not be established by probabilities or possibilities and the mere fact that a certain thing may result from a given set of circumstances is not sufficient. (See MPEP Section 2112, citations omitted).

In view of the above, even assuming that Avidor inherently teaches that some perpendicular forces would be applied to rollers 122 and 104 (in FIG. 16) of Avidor during shaving, the assertion

that that such forces may not be equal but definitely could be considered "essentially equal" as claimed, clearly undermines, militates against, a finding of inherency. Indeed, such assertion is an express acknowledgment that Avidor does not inherently teach that a force component applied perpendicularly to the cutting direction during a shaving operation would certainly or inevitably be distributed at least essentially in equal parts to an actively driveable skin stretching device and a guard, as claimed.

Moreover, the conclusory assertion that "clearly the pivot 132 is essentially in the middle and would therefore distribute forces essentially equal to both 122 and 104" (as set forth on page 6 of the Office Action) does not support a *prima facie* case of inherency, *per se*. Indeed, even assuming, arguendo, that FIG. 17 of Avidor can be fairly characterized as showing the "pivot 132 essentially in the middle" as alleged, other than pure speculation and conjecture, the Office Action does not explain how or why that in such configuration, a perpendicular force applied to the plate (110) would certainly or inevitably result in distribution of the force equally to both (122) and (104).

Again, as noted above, Avidor merely discloses that a pivotable connection (132) in FIG. 17 is used to permit tilting of

the cutting device relative to the handle. In fact, Avidor teaches that the pivotable connection (132) in FIG. 17 is an alternate embodiment of FIG. 16 in which a hinge (126) formed on the handle (124) is replaceable by the pivotable connection (132) to provide similar functionality of tilting of the support plate (110) (and hence cartridge (112)) relative to the handle. (see, Col. 10, lines 29-38, Col. 11, lines 45-47). In this regard, Avidor is clearly not concerned with, and does not inherently teach the claimed subject matter of arranging a pivot axis so that a force component applied perpendicularly to the cutting direction during a shaving operation is distributed at least essentially in equal parts to an actively driveable skin stretching device and a guard, as recited in claim 1.

Therefore, in view of the above, Applicants respectfully submit that independent claim 1 is patentable over Avidor and notice to this effect is earnestly solicited. Claims 2, 4-6, and 8-18 depend from claim 1 and accordingly are allowable over Avidor for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

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Amendment in Reply to Final Office Action of November 7, 2008

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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